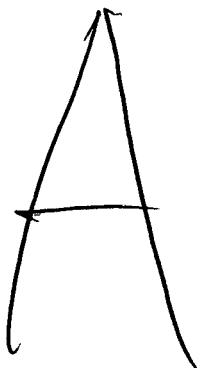


Appendix



THE SUPREME COURT
STATE OF WASHINGTON

ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY



TEMPLE OF JUSTICE
P.O. BOX 40929
OLYMPIA, WA 98504-0929

(360) 357-2077
e-mail: supreme@courts.wa.gov
www.courts.wa.gov

September 9, 2022

James F. Snyder
#133593
North Idaho Correctional Institution
236 Radar Road
Cottonwood, ID 83522

Hon. Lea Ennis, Clerk (sent by e-mail only)
Division I, Court of Appeals
One Union Square
600 University Street
Seattle, WA 98101

Re: Supreme Court No. 101202-1 – Personal Restraint Petition of James F. Snyder
Court of Appeals No.

Clerk and James Snyder:

Enclosed is a copy of the RULING DENYING EXTENSION OF TIME, signed by the Supreme Court Commissioner on this date in the above entitled case.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah R. Pendleton".

Signed by docket clerk for:
Sarah R. Pendleton
Supreme Court Deputy Clerk

MT;jm

Enclosure as stated

FILED
SUPREME COURT
STATE OF WASHINGTON
9/9/2022
BY ERIN L. LENNON
CLERK

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In the Matter of the Personal Restraint of:

JAMES F. SNYDER,

Petitioner.

No. 101202-1

Court of Appeals No. 66782-3-I

RULING DENYING EXTENSION OF
TIME

In 2005 James Snyder pleaded guilty in Snohomish County Superior Court to distribution of a controlled substance, second degree burglary, and unlawful harboring of a minor. The judgment and sentence became final in 2007. In 2011 Snyder filed a personal restraint petition in Division One of the Court of Appeals challenging his judgment and sentence, but finding no showing of entitlement to relief, the acting chief judge dismissed the petition. In August 2022 Snyder filed a document in this court labelled a “petition for writ of certiorari” along with a request to toll the statute of limitations, which the court treated as a motion for discretionary review of the Court of Appeals 2011 ruling dismissing his personal restraint petition and a motion for extension of time to file the motion for discretionary review. These matters are now before me for determination.

This court will extend the time to file a motion for discretionary review only in extraordinary circumstances and to prevent a gross miscarriage of justice. RAP 18.8(b). The court will ordinarily hold that the desirability of finality of decisions outweighs the

privilege of a litigant to obtain an extension of time. *Id.* Snyder does not show the existence of circumstances so extraordinary as to justify an 11-year extension of time. He invokes the Americans With Disabilities Act, but he does not present any evidence showing that he suffers from a disability that prevented him from timely seeking review of the Court of Appeals ruling. Nor does he show that an extension is necessary to prevent a gross miscarriage of justice. The Court of Appeals dismissed the personal restraint petition because Snyder presented no evidence or record to support his claims. There is no chance this court would grant review of the Court of Appeals decision on this record.

The motion for extension of time is denied.¹



Walt M. Burtis
DEPUTY COMMISSIONER

September 9, 2022

¹ Snyder appears to request appointment of counsel. In light of the denial of an extension of time, this request is denied.

APPENDIX

B



CL14809006

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

IN THE MATTER OF THE
PERSONAL RESTRAINT OF:

JAMES FRANKLIN SNYDER,

Petitioner.

) No. 66782-3-I

) CERTIFICATE OF FINALITY

) Snohomish County

) Superior Court No. 05-1-00341-8

FILED
April 27, 2011
SONYA KRASKI - County Clerk
Snohomish County, Washington

THE STATE OF WASHINGTON TO: The Superior Court of the State of Washington in
and for Snohomish County.

This is to certify that the order of the Court of Appeals of the State of Washington,
Division I, filed on March 4, 2011, became final on April 15, 2011.

c: James Snyder



IN TESTIMONY WHEREOF, I
have hereunto set my hand
and affixed the seal of
said Court at Seattle, this 15th
day of April, 2011.

Richard D. Johnson
Court Administrator/Clerk of the
Court of Appeals, State of
Washington Division I

90

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

In the Matter of the Personal)
Restraint of:) No. 66782-3-I
JAMES FRANKLIN SNYDER,)
Petitioner.) ORDER OF DISMISSAL
)

James Snyder pleaded guilty to one count of distribution of a controlled substance, one count of second degree burglary, and one count of unlawful harboring of a minor, in Snohomish County Superior Court No. 05-1-00341-8. Snyder's judgment and sentence became final when this court issued the mandate in his direct appeal, State v. Snyder, No. 57639-9-I, on July 20, 2007. RCW 10.73.090(3)(b). In February 2011, Snyder filed this personal restraint petition challenging his convictions.

As a general rule, personal restraint petitions must be filed within one year after the judgment and sentence becomes final. RCW 10.73.090. Thus, any collateral attack on Snyder's judgment and sentence is time-barred under RCW 10.73.090(1) unless he can show that the judgment and sentence is invalid on its face or an exception under RCW 10.73.100 applies.

Snyder does not acknowledge the time bar or claim that the judgment and sentence is invalid on its face or that any exception applies. Instead, he describes his view of various facts in what appears to be a challenge to the sufficiency of the evidence, he contends that the police falsified his statements, and he complains of his conditions of confinement prior to his plea. But Snyder has not provided a copy of his judgment and sentence, charging document, plea statement, or any police reports

No. 66782-3-I/2

or other documents indicating what evidence the State relied upon to file the charges. He has not indicated what admissions, if any, he made in the plea statement, or described the plea hearing. He has not produced any evidence to support his version of the facts. Where, as here, a petitioner's allegations are based on matters outside the record,

the petitioner must demonstrate that he has competent, admissible evidence to establish the facts that entitle him to relief. If the petitioner's evidence is based on knowledge in the possession of others, he may not simply state what he thinks those others would say, but must present their affidavits or other corroborative evidence. The affidavits, in turn, must contain matters to which the affiants may competently testify. In short, the petitioner must present evidence showing that his factual allegations are based on more than speculation, conjecture, or inadmissible hearsay.

In re Pers. Restraint of Rice, 118 Wn.2d 876, 886, 828 P.2d 1086 (1992). Even if Snyder could establish that his motion was not time-barred, his bare assertions and conclusory allegations do not establish grounds for relief in a personal restraint proceeding. Id.

Now, therefore, it is hereby

ORDERED that the personal restraint petition is dismissed under RAP 16.11(b).

Done this 4th day of March, 2011.


Acting Chief Judge

FILED
COURT OF APPEALS DIV. #1
STATE OF WASHINGTON
2011 MAR -4 AM 9:52

RICHARD D. JOHNSON,
Court Administrator/Clerk

*The Court of Appeals
of the
State of Washington*

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

May 5, 2011

James Franklin Snyder
2531 Elmers Loop Rd.
Newport, WA, 99156

Charles Franklin Blackman
c/o Snohomish County Pros
3000 Rockefeller Ave
Everett, WA, 98201-4060
cblackman@co.snohomish.wa.us

CASE #: 66593-6-1
State of Washington, Respondent v. James Franklin Snyder, Petitioner

Counsel:

The following notation ruling by Commissioner James Verellen of the Court was entered on May 4, 2011, regarding failure to pay the filing fee:

"Mr. Snyder has not responded to my rulings of February 18, 2011 and March 23, 2011. Because it appears this matter has been abandoned, it is dismissed and review is terminated."

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

emp

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

FILED

2011 JUL -5 PM 1:45
SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH

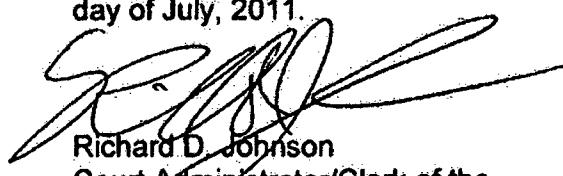
STATE OF WASHINGTON,)
Respondent,) No. 66593-6-I
v.) CERTIFICATE OF FINALITY
JAMES FRANKLIN SNYDER,) Snohomish County
Petitioner.) Superior Court No. 05-1-00341-8

THE STATE OF WASHINGTON TO: The Superior Court of the State of Washington in
and for Snohomish County.

This is to certify that the ruling of the Court of Appeals of the State of Washington,
Division I, filed on May 4, 2011, became final on July 1, 2011.

c: James Franklin Snyder
Charles Franklin Blackman

IN TESTIMONY WHEREOF, I
have hereunto set my hand
and affixed the seal of
said Court at Seattle, this 1st
day of July, 2011.



Richard D. Johnson
Court Administrator/Clerk of the
Court of Appeals, State of
Washington, Division I



CL14832731

92



CL12183833

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I**

07 JUL 27 PM 1:17
PAM L DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.

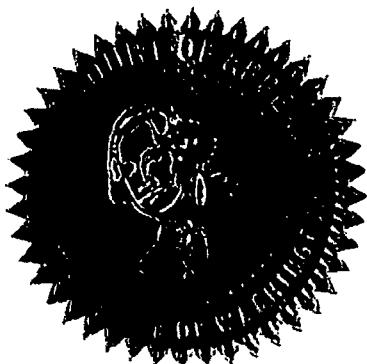
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THE STATE OF WASHINGTON TO: The Superior Court of the State of Washington in and for Snohomish County.

This is to certify that the opinion of the Court of Appeals of the State of Washington, Division I, filed on June 11, 2007, became the decision terminating review of this court in the above entitled case on July 20, 2007. This case is mandated to the Superior Court from which the appeal was taken for further proceedings in accordance with the attached true copy of the opinion.

Pursuant to RAP 14.4, costs in the amount of \$2,298.94 are awarded against judgment debtor James F. Snyder in favor of judgment creditor Appellate Indigent Defense Fund, costs in the amount of \$55.16 are awarded against judgment debtor James F. Snyder in favor of judgment creditor Snohomish County Prosecuting Attorney's Office.

C: James F. Snyder
David Donnan
Charles F. Blackman
Hon. Thomas J. Wynne
Indeterminate Sentencing Review Board



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Seattle, this 20th day of July, 2007.

RICHARD D. JOHNSON
Court Administrator/Clerk of the Court of Appeals, State
of Washington, Division I.

18
Jan

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	}	No. 57639-9
Respondent,	}	DIVISION ONE
v.	}	
JAMES F. SNYDER,	}	UNPUBLISHED
Appellant.	}	FILED: <u>June 11, 2007</u>

PER CURIAM – Although a defendant is not entitled to an exceptional sentence below the standard range, every defendant is entitled to ask the trial court to consider such a sentence and to have the alternative actually considered.¹ The trial court considered whether James Snyder was a suitable candidate for the Drug Offender Sentencing Alternative (“DOSA”) prison-based program, and properly exercised its discretion in concluding that he was not. The compelled collection of DNA from Snyder without a warrant did not violate our state constitution or the Fourth Amendment.² Snyder was properly informed that he might not receive a DOSA. We affirm.

In 2005, the State charged James Snyder with one count of distribution of a controlled substance to a minor, one count of residential burglary, and one count of child molestation in the third degree. The State amended the information, and Snyder pleaded guilty to one count of distribution of a controlled

¹ State v. Grayson, 154 Wn.2d 333, 342, 111 P.3d 1183 (2005).

² State v. Surge, 2007 Wash. LEXIS 293, at *1-2, No. 76013-6 (2007).

substance to a minor (count I), one count of second degree burglary (count II), and one count of unlawful harboring of a minor (count III).

The amended charges made Snyder eligible for a DOSA. However, in the plea agreement, the State indicated that it would object to a DOSA and recommend a sentence of 84 months, the middle of the standard range. The trial court informed Snyder that there was no guarantee that he would receive a DOSA. The court then ordered an evaluation of Snyder prior to sentencing.

At sentencing, the trial court denied Snyder's request for a DOSA. It imposed a sentence of 84 months for count I, 22 months for count II, and 6 months for count III. Counts II and III are to be served concurrently with count I.

Snyder appeals.

DOSA

Snyder argues that the trial court abused its discretion in declining his request for a DOSA. Specifically, he argues that the trial court based its decision upon grounds precluded by the real facts doctrine of the SRA. We disagree.

RCW 9.94A.660, the DOSA statute, provides a sentencing alternative for drug offenders who are convicted of a felony that is not a violent offense, a sex offense, or an offense committed with a deadly weapon.³ A drug offender is eligible if the offense involves only a small quantity of drugs, the standard range sentence for the current offense is greater than one year, and the offender has not received a DOSA more than once in the past ten years.⁴ Whether to grant a

³ RCW 9.94A.660(1).

⁴ Id.

DOSA or impose the standard range sentence is within the trial court's discretion.⁵ Whether to grant a DOSA is not reviewable, but an offender may challenge the procedure by which a sentence is imposed.⁶

Here, the trial court denied Snyder's request for a DOSA. It based its decision on the fact that Snyder's involvement with drugs included distributing drugs to a 15-year-old, an exceptionally serious offense, and his prior history of failing to obey court orders. The court stated that it had little confidence that the prison-based DOSA would be effective to rehabilitate Snyder, he was ineligible for the other DOSA program, and he had not been accepted for the Drug Court Program.

Snyder argues that the trial court violated the real facts doctrine by relying on the fact that the offense involved a teenager, and his failure to obey prior court orders.

The "real facts" doctrine prohibits a sentencing court from relying on more information than is admitted by the plea agreement, or admitted, acknowledged, or proved in a trial or at the time of sentencing, in order to depart from the standard range.⁷ Here, the trial court relied on Snyder's prior criminal history of failing to obey court orders and that the offense involved distributing drugs to a

⁵ RCW 9.94A.660(2); State v. Barton, 121 Wn. App. 792, 797, 90 P.3d 1138 (2004).

⁶ Grayson, 154 Wn.2d at 338.

⁷ State v. Reynolds, 80 Wn. App. 851, 857, 912 P.2d 494 (1996).

teenager. These facts were properly before the court and did not violate the "real facts" doctrine.

Snyder relies on State v. Grayson⁸ to argue that the trial court categorically rejected the DOSA. That case is distinguishable. There, the trial court denied Grayson's request for a DOSA stating that "the State no longer has money available to treat people who go through a DOSA program."⁹ The court refused to address any other reasons for denying the DOSA. A divided supreme court held that the trial judge categorically refused to consider the statutorily authorized sentencing alternative, and essentially failed to exercise its discretion.¹⁰ Because there were ample grounds for the trial judge to exercise its discretion and deny the DOSA, the court reversed and remanded.¹¹

In contrast here, the trial court did not fail to exercise its discretion by categorically denying the DOSA. Rather, the court determined that Snyder was not a suitable candidate for the DOSA because he had a history of failing to comply with court orders, distributed drugs to a teenager, and believed that the program would not be effective to rehabilitate him. The trial court properly exercised its discretion in denying Snyder's request for a DOSA.

⁸ 154 Wn.2d 333.

⁹ Id. at 337.

¹⁰ Id. at 342.

¹¹ Id. at 342-43.

DNA COLLECTION

Next, Snyder argues that RCW 43.43.754, the statute authorizing the collection of biological samples for DNA identification purposes, without a warrant or individualized suspicion, violated his Fourth Amendment rights. Our state supreme court recently affirmed this court's decision in State v. Surge and held that the compelled collection of DNA from convicted felons does not violate either our state constitution or the Fourth Amendment.¹²

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

Finally, Snyder contends that his attorney advised him that if he pleaded guilty, he would be afforded a DOSA. Before entering his guilty plea, the trial court informed Snyder that there was no guarantee that he would receive a DOSA. He responded that he understood. Also, in the plea agreement, the State indicated that it would object to a DOSA and recommend a sentence of 84 months. Snyder was properly informed that he might not receive a DOSA.

We affirm the judgment and sentence.

For the Court:

/s/ Cox, J.

/s/ Dwyer, J.

/s/ Grosse, J.

¹² Surge, 2007 Wash. LEXIS 293, at *1-2.

**Additional material
from this filing is
available in the
Clerk's Office.**